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| 09/910,534      | 07/20/2001  | Thomas John Eggebraaten | ROC920000315US1     | 2124             |

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MARTIN & ASSOCIATES, LLC  
P O BOX 548  
CARTHAGE, MO 64836-0548

EXAMINER

GARG, YOGESH C

ART UNIT PAPER NUMBER

3625

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/910,534

Applicant(s)

EGGEBRAATEN ET AL.

Examiner

Yogesh C Garg

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's Response to office action, received on 3/14/2005 is acknowledged and entered. Neither existing claims have been amended nor new claims have been added. Currently claims 1-27 are pending for examination.

### ***Response to Arguments***

2.1. Applicant's arguments filed on 3/14/2005 concerning claims 1-2, 10-11 have been fully considered but they are not persuasive. The applicant argues, see remarks, pages 2-6 and 8, that the reference Hodson does not teach or suggest that the reorder software sub-module module 58 may automatically place all order items in a selected previous order in the shopping cart, as expressly recited in claim 1. The examiner respectfully disagrees. Paragraph 0048 (Hodson) discloses saving "previously identified order request " or " previously saved works" which include list of ordered items one or more. The " previously identified order request" or previously saved works, which correspond to previously saved orders can be recalled by subroutine 53 or subroutine 58 to further modify the previously saved order/requests/orders or to add a previously ordered item in the shopping cart. When the previously ordered requests/orders are recalled automatically all the items included therein are placed in the shopping cart for modification and they also correspond to the most recently placed order. Therefore, previous rejection of claims 1-2 is sustainable. Limitations of claims 10-11 are closely

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parallel to the limitations of claims 1-2 and are therefore rejected on the same basis.

Regarding activation mechanism for reordering, subroutines 58 correspond to the same because it activates the reordering of the previously ordered items from the saved previous orders.

2.2. The applicant argues with reference to claims 19-21, see Remarks, page 10-11 that the examiner has not addressed the limitations of these claims. The examiner respectfully disagrees because examiner rejected these claims for similar reasons as used to reject claims 1-2. While rejecting claims 1-2 it was shown that Hodson discloses a server having a memory coupled to a processor for executing the functions of storing data, implementing functions of shopping cart and reorder mechanism. The memory is a computer readable signal bearing media comprising a recordable media to store data /record executable programs and transmission media such as web pages containing data which are transmitted to client's computer.

2.3. Applicant's arguments with respect to claims 3-9, 12-18 and 22-27 have been considered but are moot in view of the new ground(s) of rejection.

This is non-final rejection.

### **35 USC 101 Rejection**

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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3. Claims 10-18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

(1) whether the invention is within the technological arts; and

(2) whether the invention produces a useful, concrete, and tangible result.

**A. [Technological Arts Analysis]**

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts. The phrase "technological arts" has been created and used by the courts to offer another view of the term "useful arts". See *In re Musgrave*, 167 USPQ (BNA) 280 (CCPA 1970). Moreover, the courts have found that a claimed computer implemented process was within the "technological art" because the claimed invention was an operation being performed by a computer within a computer. See *In re Toma*, 197 USPQ (BNA) 852 (CCPA 1978). Finally, the Board of Patent Appeals and Interferences (BPAI) has recently affirmed a §101 rejection finding the claimed invention to be non-statutory based on a lack of technology. See *Ex parte Bowman*, 61 USPQ2d (BNA) 1669 (BdPatApp&Int 2001).

**A.1.1. [Technology only in the preamble]**

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts. The phrase "technological arts" has been created and used by the courts to offer another view of the term "useful arts". See *In re Musgrave*, 167 USPQ (BNA) 280 (CCPA 1970). Moreover, the courts have found that a claimed computer implemented process was within the "technological art" because the claimed invention was an operation being performed by a computer within a computer. See *In re Toma*, 197 USPQ (BNA) 852 (CCPA 1978). Finally, the Board of Patent Appeals and Interferences (BPAI) has recently affirmed a §101 rejection finding the claimed invention to be non-statutory based on a lack of technology. See *Ex parte Bowman*, 61 USPQ2d (BNA) 1669 (BdPatApp&Int 2001).

As to technological arts recited in the preamble, mere recitation in the preamble (i.e., intended or field of use) or mere implication of employing a machine or article of manufacture to perform some or all of the recited steps does not confer statutory subject matter to an otherwise abstract idea unless there is positive recitation in the claim as a whole to breathe life and meaning into the preamble.

**A.1.2. [Nominal recitation of technology]**

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts. The phrase "technological arts" has been created and used by the courts to offer another view of the term "useful arts". See *In re Musgrave*, 167 USPQ (BNA) 280 (CCPA 1970). Moreover, the courts have found that a claimed computer implemented process was within the "technological art" because the claimed invention was an operation being performed by a computer within a computer. See *In re Toma*, 197 USPQ (BNA) 852 (CCPA 1978). Finally, the Board of Patent Appeals and Interferences (BPAI) has recently affirmed a §101 rejection finding the claimed invention to be non-statutory based on a lack of technology. See *Ex parte Bowman*, 61 USPQ2d (BNA) 1669 (BdPatApp&Int 2001).

Mere intended or nominal use of a component, albeit within the technological arts, does not confer statutory subject matter to an otherwise abstract idea if the component does not apply, involve, use, or advance the underlying process.

**In the present application, method claims 10-18** do not recite positive use of technology in implementing the body of the claimed steps. Though the preamble recites

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an intended use of an e-commerce web site but, as analyzed above, technological arts recited in the preamble, mere recitation in the preamble (i.e., intended or field of use) or mere implication of employing a machine or article of manufacture to perform some or all of the recited steps does not confer statutory subject matter to an otherwise abstract idea unless there is positive recitation in the claim as a whole to breathe life and meaning into the preamble. The recited steps of placing previous order, defining default order, selecting default order can be done manually without use of technology, such as computers. The recited steps of presenting a shopping cart, and activation mechanism can be done manually by providing stored data in floppy disks. The limitations do not do recite the use of computer terminals, memory or processor to implement any of the claimed limitations. Therefore, the claims are directed towards non-statutory subject matter. To overcome this rejection it is recommended to amend the claims to better clarify which of the steps are being performed within the technological arts, by a computer/processor/software/hardware.

4. Claims 19-27 are rejected under 35 U.S.C. 101 because the claimed inventions are directed to non-statutory subject matter.

Claims 19-27 are directed to disembodied data structure claim which are per se not statutory. C.f. In re Wamerdam. Claims 19 and 23 and their dependencies are directed to "a computer readable program product comprising.....a shopping cart....computer readable signal bearing media bearing the shopping cart....um". The program/codes could be in mere text form which are not executable by a processor. The



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examiner suggests to redraft the claims stating a computer readable program product embedded in a computer readable media executable by a processor/computer so that the claimed codes are --executable by a computer or processor. **A claim to a computer readable medium encoded with functional descriptive material that can function with a computer to effect a practical application that results in a useful, concrete and tangible result (i.e. running an assembly line or executing a stock transaction) satisfies Section 101.** See U.S. Patent 5,710,578 to Beauregard etc. i.e., **a set of instructions in combination with a computer system.** C.f. In re Wamerdam - data structure stored in a computer memory, and In re Lowery, 32 USPQ2d 1031 (Fed. Cir. 1994) - data structure in a computer readable medium. Examples of Statutory Functional Descriptive Material are:

(a) A claimed computer-readable medium encoded with a functional data structure – this defines structural and functional relationships between the data structure and the hardware/software components. See Wamerdam.

(b) A claimed computer-readable medium encoded with a computer program - this defines structural and functional relationships between the computer program and the computer itself which allows the program's functionality to be realized provided that a useful, concrete and tangible result is realized. See U.S. Patent 5,710,578 to Beauregard et al.

Data merely stored in a computer readable medium to be read or outputted by a computer without any functional interrelationship, and thus do not impart functionality to the computer, i.e., they are not computer components. Examples of Non-Functional

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Descriptive Material :Music, Literature, Art,Photographs, Data base per se are directed to neither a "process" nor a "machine," but rather embraces or overlaps two different statutory classes of invention set forth in 35 U.S.C. 101 which is drafted so as to set forth the statutory classes of invention in the alternative only. Id. at 1551.

5. Claims 4-5, 8-9, and 23-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter because:

Claims 4-5, 8-9, and 23-27 recite within their scope a human being.

Claims 4-5, 8-9, and 23-27 recites comprising a user to define/select a default order and this corresponds to using a human means as part of the apparatus/product in the limitation. An apparatus/product claim directed to or including within its scope of a human being will not be considered to be patentable subject matter under 35 U.S.C. 101. The grant of a limited, but exclusive property right in a human being is prohibited by the Constitution. The applicant's attention is kindly referred to recent ruling by the US Patent and Trade Mark Office, Board of Appeals and Interferences (Ex Parte Bowman, 61 USPQ2d 1669) (Unpublished)).

Also please refer to a decision by the Board of Patent Appeals and Interferences In Ex parte Allen, ;,- USPQ (Bd. App. & Int. April 3,1987), " on "Animal – Patentability-", held that claimed polyploid oysters are nonnaturally occurring manufactures or compositions of matter within the meaning of 35 U.S.C. 101. The Board relied upon the opinion of the Supreme Court In Diamond v. Chakrabarty. 447 U.S. 303, 206 USPQ 193 (1980) as It had done In EX parte Hibberd. 227 USPQ 443 (Bd. App. & Int., 1985), as

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controlling authority that Congress Intended statutory subject matter to "Include anything under the sun that is made by man.- The Patent and Trademark office now considers nonnaturally occurring non-human multiceliular living organisms., Including animals, to be patentable subject matter within the scope of 35 U.S.C. 101. The Board's decision does not affect the principle and practice that products found In nature will not be considered to be patentable subject matter under 35 U.S.C. 101 and/or 102. An article of manufacture or composition of matter occurring in nature will not be considered patentable unless given a new form, quality, properties or combination not present in the original article existing in nature In accordance with existing law. -See e.g. Funk Bros, Seed Co. v. Kalo Inoculant Co., 333 U.S. 127, 76 USPQ 280 (1948); American Fruit Growers v. Brogdex. 283 U.S. 1, 8 USPQ 131 (1931); Ex parte Grayson. 51 USPQ 413 (Bd. App. 1941).

**A claim directed to or including within its scope a human being will not be considered to be Patentable subject matter under 35 U.S.C. 101. The grant of a limited, but exclusive property right In a human being is prohibited by the Constitution. Accordingly, It is suggested that any claim directed to a non-plant multicellular organism which would Include a human being within Its scope Include the limitation "non-human" to avoid this ground of rejection. The use of a negative limitation to define the metes and bounds of the claimed subject matter is a permissible form of expression. In re Wakefield, 422 F.2d 897, 164 USPQ 636 (CCPA 1970).**

### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6.1. Claims 1-9 and 19-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "a shopping cart that may contain a plurality of order items" in line 8 of claim 1. This limitation amounts to a mere possibility that it may or may not contain a plurality of order items and therefore renders the claim indefinite.

Claims 2-9 and 19-27 are rejected for the same reason. As best understood by the examiner the limitations is directed to a shopping cart and will be further treated on merits accordingly.

7. Examiner cites particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

8. Note: Claims Directed to an Apparatus/Article of manufacture must be distinguished from the prior art in terms of structure rather than function, *In re Danly* 263 F.2d 844, 847, 120 USPQ 582, 531 (CCPA 1959). A claim containing a " recitation with respect to the manner in which a claimed apparatus is intended to be employed

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does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ2d 1657 (bd Pat. App. & Inter. 1987).

In this application claims 1-9 and 19-27 are directed an Apparatus/Article of manufacture. The structural limitations of claims 1-9 and 19-27 are directed to a processor, a memory coupled to process, computer readable signal bearing media, transmission/recordable media and software for shopping cart and reorder/default order mechanisms which place order items in the shopping cart. The other limitations, such as defining what the selected order comprises, a user defining and selecting a default order do not further limit the claimed structure but are intended functions/use of the structure.

### ***Claim Rejections - 35 USC § 102***

9 The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 10-11, and 19-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Clonts et al. (US 2001/0027423 A1), hereinafter referred to as Clonts.

**Regarding claims 1-2,** Clonts discloses an apparatus comprising:

at least one processor, a memory coupled to the at least one processor, an e-commerce application residing in the memory and executed by the at least one processor, and the e-commerce application including: a shopping cart that may contain a plurality of order items; wherein the selected previous order comprises the order that was most recently placed by a user of the e-commerce application (see at least Figs. 1-2 and paragraphs 0022-0027,

*" The cash register is programmed to transmit automatically the electronic receipts to a host computer at the home office or elsewhere, via a network, FIG. 1(c). .....[0024] When the host computer receives the electronic receipts, they are stored in a database (hereafter called the electronic receipt database), FIG. 1(d). For quick retrieval later, it is preferred that the electronic receipt database resides on the same computer as a web server functioning as the retailer's website providing on-line shopping options for the consumer, FIG. 1(e).....[0026] Retrieval [0027] When the customer would like to reorder using the web, he/she accesses the retailer's website. The website includes an option for the user to enter the Quick e-Basket code found at the bottom of the receipt, FIG. 1(g). Once this Quick e-Basket code is entered, the web server queries the electronic receipt database and extracts the electronic receipt with the specified Quick e-Basket code. The web server reads the list of purchases on the electronic receipt ..... The items and quantities from the electronic receipt which are available on-line are automatically placed in the on-line shopping basket by the web server, FIG. 1(i). ....."*

Note: The host computer/web server would inherently include a processor and a memory to store the application programs and data on electronic receipts, which correspond to at least one most recently placed previous order residing in the memory of the computer. The computer of the web server includes a shopping basket, which

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corresponds to the claimed shopping cart and also includes a reorder mechanism which is used to extract the electronic receipt including the ordered items most recently placed and previously stored in the memory and place it in the shopping cart/basket.

**Regarding claims 10-11 and 19-21**, their limitations are closely parallel to the limitations of claims 1-2 and are therefore rejected on the same basis. Regarding activation mechanism for reordering in claims 10-11, *specified Quick e-Basket code* corresponds to the same because it activates the placement of the previously ordered items from the saved previous orders in the shopping cart for further use to reorder or modify the earlier ordered items. While rejecting claims 1-2 it was shown that Clonts discloses a server having a memory coupled to a processor for executing the functions of storing data, implementing functions of shopping cart and reorder mechanism. The memory is a computer readable signal bearing media comprising a recordable media to store data /record executable programs and transmission media such as web pages containing the electronic receipts which are transmitted to client's computer.

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 3-9, 12-18 and 22-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clonts and further in view of Elston et al. (US 2002/0120582) hereinafter referred to Elston.

Regarding claim 3, all limitations are already covered and analyzed in claims 1-2 above except for (a) the previous order residing in the memory is defined as a default order. Clonts does not teach that the previous order residing in the memory is a default order. But the reorder mechanism of Clonts is similar to the default order mechanism as claimed because it also does the same function of automatically placing all order items from a saved previous order which could be a default order, in the shopping cart. Elston, in the same field of electronic commerce of reordering, teaches using a default mechanism (see at least paragraph 0255,

*“Customers have the option to place subsequent orders using previously coded orders saved in the customer account (28) while in the store (or using forms faxed from another location). These orders can be repeat order of previously coded preferences and can be charged to existing payment accounts. Information on orders with new items, options or modifiers is saved as additional order preferences for future customer use.”*. See also paragraphs 0257-0258, 0272, 0295

Note: Saved order with coded preferences corresponds to saved default orders as they can be later accessed to place orders by modifying them. The triggering mechanism to invoke using a default [saved preferences] mechanism in Enston is similar to that of invoking a reorder mechanism by a *specified Quick e-Basket code* in Clonts. In view of Elston, it would have been obvious to incorporate the feature of using a default order mechanism in Clonts along with existing reorder mechanism because it will be faster and provide future ordering convenience per the customer's



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preference of payment types, calculation of taxes, etc, and faster as explicitly disclosed in Elston. Clonts uses It is important to note that the applicant's default order mechanism is triggered only when it is selected by the user by using OrderCopy command and it does not trigger on its own by default.

Regarding claims 4-5, Elston discloses that the apparatus of claim 3 wherein the default order is defined by a user defining an order and selecting the order as the default order/selecting at least one order item to add to the default order (see at least paragraphs (see at least paragraph 0255,

*“Customers have the option to place subsequent orders using previously coded orders saved in the customer account (28) while in the store (or using forms faxed from another location). These orders can be repeat order of previously coded preferences and can be charged to existing payment accounts. Information on orders with new items, options or modifiers is saved as additional order preferences for*

*future customer use.”*). Note: Saved order with coded preferences corresponds to saved default orders, and the same are defined and selected with different preferences by users, as they can be later accessed to place orders by adding new items, modifying them and saving them with new preferences to be used as default when the customer wants to reorder items.. In view of Elston, it would have been obvious to incorporate the feature of using a default order mechanism in Clonts along with existing reorder mechanism because, it will be faster and provide future ordering convenience per the customer's preference of payment types, calculation of taxes, etc, and faster as explicitly disclosed in Elston.

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Regarding claims 6-9, their limitations are closely parallel to the limitations already covered and analyzed in claims 1-5 above and are therefore analyzed and rejected on the basis of same rationale as being unpatentable over Clonts and further in view of Elston et al. (US 2002/0120582) hereinafter referred to Elston.

Regarding claims 12-18 and 22-27 all of the limitations are already covered while analyzing claims 1-11 and 19-21 above as being unpatentable over Clonts and further in view of Elston et al. (US 2002/0120582) hereinafter referred to Elston.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Publication 2002/0026378 A1 to Inoue (see at least paragraphs 0029-0035) and US Publication 2002/0091576 to Giordano, III et al. (see at least paragraphs 0001-0006) disclose computerized systems comprising processors coupled with memory storing and using previous order for rapid ordering or new or reorders.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh C Garg whose telephone number is 571-272-6756. The examiner can normally be reached on M-F(8:30-4:00).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yogesh C Garg  
Primary Examiner  
Art Unit 3625

YCG  
May 24, 2005